

REPLY COMMENTS ON  
SPECIAL PROFILES SUBMITTED  
ON BEHALF OF CORUS GROUP, PLC

Submitted to the Trade Policy Staff Committee  
On  
January 15, 2002

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Pursuant to the notice published in the Federal Register (66 Fed. Reg. 54321 (October 26, 2001), as amended by 66 Fed. Reg. 67349 (December 28, 2001)), Corus Group plc. (Corus) hereby submits the following response to comments with respect to special profiles submitted to the Trade Policy Staff Committee (TPSC) by other parties on January 4, 2002. In particular, Corus' response addresses the Minimill 201 Coalition's (Long Products) submission and questions raised by the TPSC.<sup>1</sup>

Special profiles are non-commodity, highly engineered, custom-made hot-rolled bars and light shapes. These products account for a small portion of all imports of hot-rolled bar and light shapes, and no adequate domestic source exists for these products. The manufacturing process required for the production of these articles involves special machinery and expertise. Thus, a very limited number of producers around the world can make special profiles. Further, these products are manufactured for particular end-uses, and no substitutes exist available for them.

Given the unique nature of special profiles, these products are sold to customers for premium prices on a contract specific basis. Contrary to the domestic industry's contention, import restrictions will cause these already expensive products to become even more highly priced. With respect to commodity-type hot-rolled bars it may be true that the excess U.S. capacity will cause the primary effect of import relief to be increased domestic industry production and market share rather than raised domestic prices. Minimill 201 Coalition (Long Products) Comments (Minimill Brief) at p. 22. Such is not the case for special profiles, however. There is no current excess capacity in the United States that can be used to produce special profiles. Special profiles are manufactured in highly specialized facilities, with custom tooling, that are expressly fitted for the business of producing "tailor-made" shapes. The excess capacity to produce hot-rolled bars in the United States could not be used for this

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<sup>1</sup> In response to the question of the TPSC, the exhibits that it received but were not presented to the International Trade Commission include: excerpts from Corus Forklift Mast profiles catalogue; certain customer affidavits on forklift masts and track bar; Hoesch Hoehenlimburg GmbH customer statement to the Department  
(Continued ...)

purpose because it is fitted for high-output, commodity oriented processes.<sup>2</sup> Therefore, at best, consumers will continue to rely on imports for these specialized products, notwithstanding import restrictions, but will be forced pay even higher prices for these niche products that cannot be manufactured using existing capacity in the United States. It is even more likely, however, that consumers of special profiles located in the United States will simply move their operations off-shore. For example, Caterpillar has stated that it will be inclined to move its production facilities abroad if import restrictions are put in place.<sup>3</sup> This is a credible threat because some Italian manufacturers are already producing undercarriages (the finished part that Caterpillar manufactures from the special profiles that it imports) and sending the completed underriage to the United States.

Notwithstanding the dirth of U.S. production of these niche products, the U.S. industry's adjustment plans do not call for a single producer to invest in the tooling equipment needed to produce them. Customers that rely on imports for these highly technical products can take little comfort in the Minimill Coalition's assertions that, during any period of relief, some domestic producers "*may* plan to begin trial production, qualification, or production of commerical quantities of new bar products." Minimill Brief at p. 25 (emphasis added). Customers can hardly be expected to wait for domestic producers to decide whether or not to try such a plan, develop the products -- which can take several years -- and then place them in *trial* production. What will the domestic industry have customers do in the meantime, since there are no viable alternatives to the products that U.S. producers *may* decide to

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of Commerce; list of forklift masts that Corus shipped to the United States; and the table "All imports of special profiles into the United States."

<sup>2</sup> Modifying an existing mill to make special profiles would cost \$15-80 million. Transcript of November 8, 2001, ITC Hearing on Remedy (Testimony of Mr. Hoye) at p. 691.

<sup>3</sup> See, e.g., testimony of Mr. Lane of Caterpillar: "I should just add that a tariff on any product would be very damaging. A tariff on a product that is not made in the U.S. would put enormous pressure on a company like Caterpillar to move production to a non-U.S. source." Transcript of November 8, 2001, ITC Hearing on Remedy at p. 605.

make and no guarantee that U.S. producers will succeed in qualifying or will make enough of the necessary products to meet demand. Customers should not be left to suffer while the domestic industry decides *whether* to try to overcome the long, costly and risky process of entering the special profiles market.

Simply having free access to billets will not allow the U.S. industry to roll special profiles. Minimill Brief at p. 31. Access to semifinished steel has not been the impediment to the domestic industry's production of special profiles. U.S. producers do not want to invest in the very expensive tooling and rolling equipment needed to produce special profiles because they do not view such a large investment as warranted for such a low volume product. European producers, however, achieve economies of scale for special profiles because they sell them on a global basis. Simply put, this is a conscious choice on the part of the U.S. industry not to participate in the special profiles market. It is not a reflection of inadequate access to feedstock.

Finally, the wide array of special profiles that foreign producers have highlighted throughout this investigation has made it difficult to categorize these products for purposes of analysis and evaluation. In its determination, the International Trade Commission (ITC) stated that it made a negative determination as to "shapes," when referring to a product previously called "heavy structural shapes" during its investigation. ITC Determination at n.1. While one could argue that, as a result of the ITC's changed terminology, the Commission meant to include special profiles as part of its negative determination for the "shapes" category, it is not entirely clear that this is the case. "Shapes" are defined in Appendix A of the ITC's determination as "heavy structural shapes."

The more interesting question for the TPSC to resolve is whether a product that enters under an HTS number classified in the hot-rolled bar and light shapes grouping by the ITC should nonetheless be defined for purposes of relief as a heavy structural shape because it has "a height equal to or more than 80 mm." The scope of products subject to this investigation was initially defined by the USTR in

terms of HTS numbers. The ITC then had the unenviable task of dividing these HTS numbers into product groupings – a task made more challenging by the fact that a wide array of products may enter the United States under the same HTS number. All special profiles enter the United States under these types of “basket” HTS numbers.

The ITC’s approach was to categorize HTS numbers into product groupings based on the characteristics of the majority of the products that entered the United States under each HTS number. This system caused many products in basket categories to be swept into product groupings where they did not otherwise belong. For example, many special profiles meet the description of heavy structural shapes but were placed in the hot-rolled bar category by the ITC because they share an HTS number with products properly categorized as light shapes. These larger special profiles should not be penalized simply because of their HTS categorization. If they are, in fact, part of a group that the ITC has found was not causing injury to the domestic industry (*i.e.* heavy structural shapes), then, for purposes of relief, they should be treated as part of that noninjurious group. Therefore, for determining whether a product subject to investigation is within a product category that the ITC has found to be injurious, the President should evaluate whether the specific product meets the description of the injurious category or if its description is more like those products that the ITC has found to be noninjurious. In this case, certain special profiles which are heavy structural shapes would not be subject to relief.

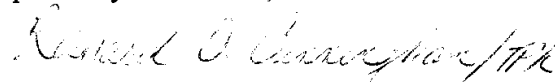
The TPSC should also keep firmly in view the fact that the uniformly high value of the special profiles covered by these Comments<sup>4</sup> provides a ready mechanism for treating them separately and differently than commodity hot-rolled bars. As shown in our prior submission, the average unit values

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<sup>4</sup> A listing of the special profiles that Corus imports into the United States appears in Corus’ exclusion request filed with the TPSC on November 13, 2001. That document refers to “grouser bars,” which Corus later redefined as “track bar” in accordance with the terminology used by Caterpillar for this product.

of special profiles over the period of inestiation ranged from \$497.78 per to \$559.01 per short ton. By creating a “value break” at \$420 per ton, the special profiles – but not commodity merchant bars – would be put in a separate category constituting only about 17 percent of all hot-rolled bar imports. That category could either be excluded from restrictions or subjected to a form of quantitative restraint that would permit continued importation of needed quantities.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Richard O. Cunningham", followed by a stylized flourish or initials.

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